

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION

FILED IN CLERK'S OFFICE  
U.S. DISTRICT COURT  
OCT 09 2003

LUTHER D. THOMAS, CLERK  
Deputy Clerk

IN RE: TRI-STATE CREMATORY LITIGATION

MDL DOCKET NO.: 1467

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OBJECTION TO SUBPOENA SERVED 10/01/03  
ON KEN W. MILLER

COMES NOW GEORGIA FARM BUREAU MUTUAL INSURANCE COMPANY, with this its OBJECTION to the subpoena issued September 29, 2003 and served on October 1, 2003, showing this Honorable Court as follows:

1.

Ronald R. Womack, co-counsel for SCI Funeral Home, Defendant, issued a subpoena on September 29, 2003 to Georgia Farm Bureau Mutual Insurance Company. A true and correct copy of the subpoena is attached hereto as Exhibit "A". Georgia Farm Bureau Casualty Insurance Company issued a homeowner's policy to Ray Marsh and Clara Chesnut Marsh, homeowner's policy number HP0234754 00 06. The subpoena intentionally mislabels the property in question as the "Tri-State Crematory property". The Tri-State property was next door to the homeowner's property which was insured under the Georgia Farm Bureau Casualty Insurance Company policy.

2.

Respondent, Georgia Farm Bureau Mutual Insurance Company, objects to the mischaracterization. The homeowner's policy application in question, properly executed by the named insured, specifically indicates that there is no business operated on the homeowner's policy premises. Therefore, Georgia Farm objects to the subpoena to the extent that it suggests that this property is the "Tri-State Crematory" property.

3.

Defendant further shows that to its knowledge, Georgia Farm Bureau Mutual Insurance Company has no photographs, video tapes, diagrams, sketches, images, and all other visual depictions of any or all portions of the Tri-State Crematory property to the extent that the subpoena actually seeks any of these matters depicting the actual Tri-State Crematorium, or adjacent property to the crematorium.

4.

Defendant further shows that it is not in possession of any “appraisals, statements, affidavits, letters, correspondence, memoranda, emails, notes, and writings of any type regarding the valuation of the Tri-State Crematory property” to the extent that the subpoena actually seeks the aforementioned matters related to the Tri-State Crematorium, or property immediately adjacent to the crematorium.

5.

Georgia Farm Bureau Mutual Insurance Company and Georgia Farm Bureau Casualty Insurance Company are presently involved in a declaratory judgment action concerning Ray and Clara Marsh and the homeowner’s policy, as well as Brent Marsh concerning same. Georgia Farm Bureau Mutual Insurance Company and Georgia Farm Bureau Casualty Insurance Company object to the production of any materials developed in anticipation of that litigation and which contain the mental impressions of party representatives, as well as opinions concerning said litigation.

6.

Georgia Farm Bureau Mutual Insurance Company shows that to the extent there are any documents or photographs, or matters which would be reflected in Exhibit “A” actually concerning the Tri-State Crematory property, said inquiry should be directed to the attorneys representing the Marshes in the within litigation.

7.

If counsel wishes to see a picture of Clara Marsh's home, as well as the appropriate underwriting file for her homeowner's policy which is designated HP0234754, plaintiff need only recast the subpoena taking out references to Tri-State Crematory property which clearly could, and apparently would be used by counsel in a misleading and inappropriate fashion. Georgia Farm will produce any of the requested materials concerning the homeowner's policy in an appropriately recast subpoena at a time mutually convenient to the parties with the exception of any documents prepared in anticipation of litigation, or constituting attorney work-product or attorney-client privileged document.

8.

This objection, along with the accompanying cover letter, constitutes Georgia Farm's efforts to resolve this discovery conflict without the necessity of Court involvement. Georgia Farm respectfully suggests that it has provided a reasonable solution to the Objection which will provide counsel with the requested materials that are not otherwise privileged or not discoverable absent a showing which has not been made here. Counsel should contact the undersigned to discuss this matter further in an effort to resolve the discovery conflict.

Respectfully submitted,  
FAIN, MAJOR, WILEY & BRENNAN, P.C.

By:   
CHARLES A. WILEY, JR.

Bar No. 758800

Attorney for Georgia Farm Bureau  
Mutual Ins. Co.

100 Glenridge Point Parkway  
Suite 500  
Atlanta, GA 30342  
(404) 688-6633

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION

IN RE: TRI-STATE CREMATORY LITIGATION

MDL DOCKET NO.: 1467

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CERTIFICATE OF SERVICE

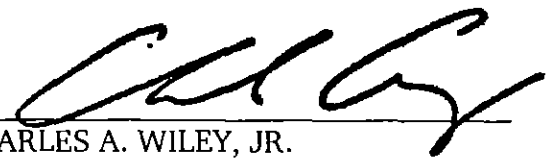
This is to certify that I have this date served upon counsel for the opposing parties in the foregoing matter a copy of Objection to Subpoena Served 10/01/03 on Ken W. Miller by placing same in the United States Mail, postage prepaid, addressed as follows:

Ronald R. Womak  
The Womack Law Firm, P.C.  
109 E. Patton Avenue  
LaFayette, GA 30728

This 8<sup>th</sup> day of October, 2003.

FAIN, MAJOR, WILEY & BRENNAN, P.C.

BY:

  
CHARLES A. WILEY, JR.  
Georgia State Bar No. 758800  
Attorneys for Georgia Farm Bureau  
Mutual Insurance Company and Georgia  
Farm Bureau Casualty Insurance  
Company

100 Glenridge Point Parkway  
Suite 500  
Atlanta, Georgia 30342  
(404) 688-6633

**RECEIVED**

SEP 30 2003

CIVIL PROCESS-BIBB COUNTY  
4486

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION

IN RE: TRI-STATE CREMATORY LITIGATION

SUBPOENA IN A CIVIL CASE

(This relates to all actions.)

MDL Docket Number: 1467

TO: Georgia Farm Bureau Mutual Insurance Company  
Attn: Ken W. Miller, Registered Agent  
1620 Bass Road at I 75  
Macon, GA. 31210

YOU ARE COMMANDED to appear in the United States District Court at the place, date and time specified specified to testify in the above case.

PLACE OF TESTIMONY

COURTROOM:

DATE AND TIME:

YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

X YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date and time specified below (list documents or objects): Please See Exhibit "A" attached hereto.

PLACE  
The Womack Law Firm, P.C.  
109 E. Patton Ave.  
P.O. Box 549  
LaFayette, GA. 30728

DATE AND TIME  
October 20, 2003  
10:00 a.m.

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Fed. Rules Civil Procedure, 30(b) (6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

Co-Counsel for SCL Funeral Home Defendants 09/29/03

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Ronald R. Womack, The Womack Law Firm, P.C., 109 E. Patton Ave., P. O. Box 549, LaFayette, GA 30728  
(706) 638-2234

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)



## PROOF OF SERVICE

DATE 10-1-03 PLACE GA. Farm Bureau  
1620 BASS Rd.  
MACON, GA 31210

SERVED Ken W. Miller - Reg. Agent

SERVED ON (PRINT NAME) MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

Henry Donald Jr.LT. Deputy Sheriff

## DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

10-1-03

Date

Signature of Server

668 051st George Street  
 Address of Server MACON, GA 31201

Rule 45, Federal Rules of Civil Procedure, Parts C &amp; D:

## (c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expenses resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where

That person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected

matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expenses to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## (d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

**Exhibit "A"**

For the purpose of this subpoena, the term "Tri-State Crematory Property" is defined as all of that real property and improvements located thereon upon which Georgia Farm Bureau Mutual Insurance Company issued insurance policies with effective dates of on or about February 19, 1998 through February 19, 2003, and which is described in said insurance policies as "10 acres 6 mi. N. of LaFayette S/S of Center Point Rd. in Walker Co."

1. All photographs, videotapes, diagrams, sketches, images, and all other visual depictions of any or all portions of the Tri-State Crematory Property.
2. All appraisals, statements, affidavits, letters, correspondence, memos, e-mails, notes, and writings of any type regarding the valuation of the Tri-State Crematory Property.



Georgia Farm Bureau Mutual Insurance Company  
Georgia Farm Bureau Casualty Insurance Company  
P.O. Box 7008 Macon, Georgia 31208-7008

## SPECIAL NOTICE

**HELPING YOU is what we do best!**

|||||

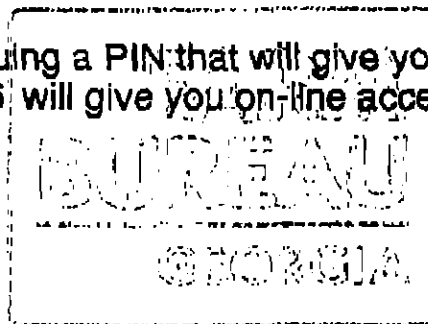
HP 0234754 05 06  
RAY MARSH  
& CLARA CHESTNUT MARSH  
P O BOX 58  
ROCK SPRING GA 30739-0058

**Georgia Farm Bureau is now on-line!**

You may now access your policy information via the Internet at **www.gfb.org**. Just click on the "MEMBERS LOG IN HERE" button and register your account.

For your privacy we are issuing a PIN that will give you access to the policies shown below. Your PIN **13096816** will give you on-line access to the following policies:

HP 0234754



You may have other policies that have a different PIN. You will be notified of those PINs on the next renewal of those policies. Safeguard your PIN!

### After-Hours Claims Reporting Hotline!

To report a claim when your local Farm Bureau office is closed, please use our After-Hours Claims Reporting Hotline by calling toll free, 1-866-8GA-FARM (1-866-842-3276). This service is available from 4:30pm to 8:00am, Monday through Friday and twenty-four hours on weekends and holidays, and any other time your County office is closed.

### IMPORTANT

Please check the first page of your policy declarations for billing information.

10-0234754 (05/02)

FILED:R-PM



MEMBER NO. 02719177

DECLARATIONS PAGE 1

## HOMEOWNERS POLICY

NEW DECLARATION \* \* \* \* \* EFFECTIVE 02/19/1998

## THIS IS A CONTINUOUS RENEWAL POLICY

POLICY NUMBER	FROM	POLICY PERIOD	TO	COVERAGE IS PROVIDED IN THE	AGENCY
HP 0234754 00 06	02/19/98	02/19/99		GEORGIA FARM BUREAU CASUALTY INSURANCE COMPANY	01 146 20

NAMED INSURED AND ADDRESS

RAY MARSH  
& CLARA CHESTNUT MARSH  
PO BOX 58  
ROCK SPRING GA 30739-0058

GREGORY R. STANFIELD  
P.O. BOX 925  
LAFAYETTE, GA

PHONE NO 706-638-3237

30728

AGENT

PRODCHRR

THE PREMISES COVERED BY THIS POLICY IS LOCATED  
10 ACRES 6 MI N OF LA FAYETTE S/S OF CENTER POINT RD IN WALKER CO.

RATING INFORMATION- INFLATION GUARD, FRAME, CONSTRUCTED IN 1968,  
PRIMARY RESIDENCE, PROTECTION CLASS 6, TERRITORY 36, FEET FROM HYDRANT 1003,  
\$ 500 SECTION I LOSS DEDUCTIBLE PER OCCURRENCE, 1 FAMILY, FIRE DISTRICT,

COVERAGE AT THE ABOVE DESCRIBED LOCATION IS PROVIDED ONLY WHERE A LIMIT OF  
LIABILITY IS SHOWN OR A PREMIUM IS STATED.

## SECTION I COVERAGE

- A. DWELLING
- B. OTHER STRUCTURES
- C. PERSONAL PROPERTY
- D. LOSS OF USE

## SECTION II COVERAGE

- E. PERSONAL LIABILITY
- F. MEDICAL PAY. TO OTHERS -

## LIMIT OF LIABILITY

\$100,000

\$10,000

\$70,000

\$20,000

\$100,000 EACH OCCURRENCE

\$1,000 EACH PERSON

## PREMIUMS

\$593.00

TOTAL BASIC PREMIUM - - - - - \$593.00

TOTAL ANNUAL PREMIUM - - - - - \$593.00

POLICY PERIOD - 12:01 A.M. STANDARD TIME AT THE RESIDENCE PREMISES.

RETAIN FOR YOUR RECORDS

FOLD AT PERFORATION BEFORE SEPARATING

RETURN THIS STUB WITH PAYMENT

## -BILLING/REFUND STATEMENT-

TOTAL PREMIUM.... \$593.00  
AMOUNT RECEIVED.. \$633.00  
  
REFUND DUE..... \$40.00

POLICY - HP 0234754 0006 AGT 146 20 BILL INSR  
RAY MARSH  
& CLARA CHESTNUT MARSH  
REFUND DUE \$40.00

IF YOU HAVE A QUESTION CONCERNING THIS BILLING/  
REFUND STATEMENT, CONTACT YOUR LOCAL AGENT.

THANK YOU FOR LETTING US  
SERVE YOU HP 0234754 0006

MEMBER NO. 02719177

DECLARATIONS PAGE 2

## HOMEOWNERS POLICY

NEW DECLARATION \* \* \* \* \* EFFECTIVE 02/19/1998

## THIS IS A CONTINUOUS RENEWAL POLICY

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HP 0234754 00 06	02/19/98	02/19/99		GEORGIA FARM BUREAU CASUALTY INSURANCE COMPANY	01 146 20

NAMED INSURED AND ADDRESS

RAY MARSH

&amp; CLARA CHESTNUT MARSH

PO BOX 58

ROCK SPRING GA 30739-0058

GREGORY R. STANFIELD

P.O. BOX 925

LAFAYETTE, GA

PHONE NO 706-638-3237

AGENT

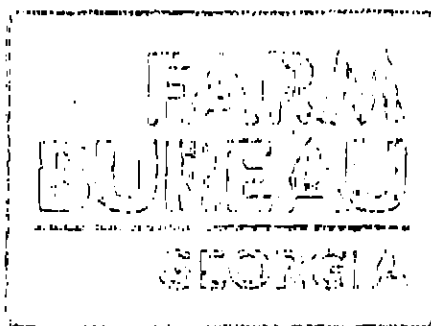
30728

P/DECOR

FORMS AND ENDORSEMENTS - HO-3 04/84\*, HO-500 04/85\*, HO-502 02/92\*,  
HO-325 12/85\*, HO-0101 10/96\*, HO-291 10/96\*, HO-216 04/84\*.

SEE REVERSE SIDE  
AUTHORIZED SIGNATURE

03/19/98  
DATE



RETAIN FOR YOUR RECORDS

FOLD AT PERFORATION BEFORE SEPARATING

RETURN THIS STUB WITH PAYMENT

IMPORTANT

IMPORTANT

IMPORTANT

PLEASE SEE THE FIRST PAGE OF THE DECLARATIONS FOR INFORMATION REGARDING  
ANY REFUND OR PREMIUM DUE. REFUNDS WILL BE MAILED IN SEPARATE ENVELOPE.

TO INSURE CONTINUOUS COVERAGE, DETACH THE BILLING STUB AND RETURN  
PROMPTLY WITH YOUR CHECK IN THE ENCLOSED RETURN ENVELOPE.

MEMBER NO. 02719177

DECLARATIONS PAGE 3

HOMEOWNERS POLICY

NEW DECLARATION \* \* \* \* \* EFFECTIVE 02/19/1998

THIS IS A CONTINUOUS RENEWAL POLICY

POLICY NUMBER	FROM	POLICY PERIOD	TO	COVERAGE IS PROVIDED IN THE	AGENCY
HP 0234754 00 06	02/19/98	02/19/99		GEORGIA FARM BUREAU CASUALTY INSURANCE COMPANY	01 146 20

NAMED INSURED AND ADDRESS

RAY MARSH

& CLARA CHESTNUT MARSH

PO BOX 58

ROCK SPRING GA 30739-0058

DESCRIPTION OF ENDORSEMENTS

GREGORY R. STANFIELD

P.O. BOX 925

LAFAYETTE, GA

PHONE NO 706-638-3237

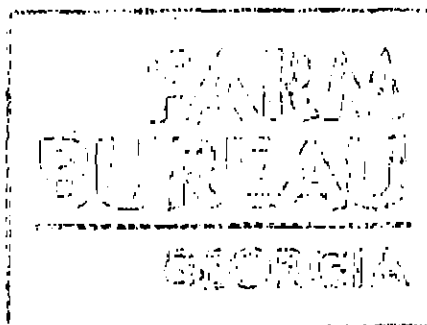
AGENT

30728

PREMISES ALARM SYSTEM CREDIT

FIRE OR SMOKE LOCAL ALARM DEAD BOLT LOCKS FIRE EXTINGUISHER.

PERSONAL PROPERTY REPL COST



RETAIN FOR YOUR RECORDS

FOLD AT PERFORATION BEFORE SEPARATING

RETURN THIS STUB WITH PAYMENT

IMPORTANT

IMPORTANT

IMPORTANT

PLEASE SEE THE FIRST PAGE OF THE DECLARATIONS FOR INFORMATION REGARDING ANY REFUND OR PREMIUM DUEL. REFUNDS WILL BE MAILED IN SEPARATE ENVELOPE.

TO INSURE CONTINUOUS COVERAGE, DETACH THE BILLING STUB AND RETURN PROMPTLY WITH YOUR CHECK IN THE ENCLOSED RETURN ENVELOPE.